

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

UNITED STATES OF AMERICA

v.

CASE NO: 3:20-cr-103-MMH-JBT

WENDELL MARIO ROY

ORDER ON MOTION FOR  
SENTENCE REDUCTION UNDER  
18 U.S.C. § 3582(c)(1)(A)

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**ORDER**

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons for a reduction in sentence under 18 U.S.C. § 3582(c)(1)(A), and after considering the applicable factors provided in 18 U.S.C. § 3553(a) and the applicable policy statements issued by the Sentencing Commission,

IT IS ORDERED that the motion is:

☒ DENIED WITHOUT PREJUDICE because the defendant has not exhausted all administrative remedies as required in 18 U.S.C. § 3582(c)(1)(A), nor have 30 days lapsed since receipt of the defendant's request by the warden of the defendant's facility.

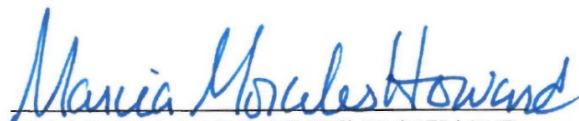
Section 3582(c)(1)(A)'s exhaustion requirement is a firm prerequisite to filing a motion for compassionate release in district court, which is not subject to judicially created exceptions. United States v. Alam, 960 F.3d 831, 833-36 (6th Cir. 2020); United States v. Raia, 954 F.3d 594, 597 (3d Cir. 2020).

“Despite the unique circumstances presented by the COVID-19 pandemic, ... defendants are generally required to comply with the exhaustion requirement in § 3582(c)(1)(A).” United States v. Rodrigues, 847 F. App’x 609, 611 (11th Cir. 2021) (citations omitted).

In its response opposing Roy’s motion for compassionate release, the United States argues that Roy failed to satisfy the exhaustion requirement because he moved for compassionate release fewer than 30 days after Roy submitted his request for a reduction-in-sentence (RIS) to the warden of his facility. (Doc. 35, Response at 7). Indeed, Roy filed the Emergency Motion for Compassionate Release the very same day he submitted his RIS request to the warden. (Compare Doc. 32, Emergency Motion for Compassionate Release at 5, 6 with Doc. 32-1, RIS Request). Roy does not dispute these facts.

Accordingly, Defendant Wendell Roy’s Emergency Motion for Compassionate Release (Doc. 32) is **DENIED without prejudice**. Roy may file a renewed motion once he has exhausted his administrative remedies or once 30 days have passed since the warden received his RIS request, whichever occurs earlier. See 18 U.S.C. § 3582(c)(1)(A).

**DONE AND ORDERED** at Jacksonville, Florida this 4th day of February, 2022.

  
**MARCIA MORALES HOWARD**  
United States District Judge

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Copies:

Counsel of record

Pro se defendant